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8 Attorneys for Plaintiff

9 UNITED STATES MAGISTRATE COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA, ) No. 3-06-70479 MAG  
13 Plaintiff, ) [PROPOSED] ORDER AND  
14 v. ) STIPULATION FOR CONTINUANCE  
15 JOHNSON MAI, ) FROM AUGUST 11, 2006 TO  
a/k/a Zhi Xiong Mai, ) SEPTEMBER 6, 2006 AND EXCLUDING  
a/k/a Uncle Hong, ) TIME FROM THE SPEEDY TRIAL ACT  
a/k/a Chi Hong Mak, ) CALCULATION (18 U.S.C. §  
a/k/a Hong Suk; ) 3161(h)(8)(A)) AND WAIVING TIME  
LISA LEE, ) LIMITS UNDER RULE 5.1  
a/k/a Xiao Ling Li; )  
KAI LUN ZHENG, )  
a/k/a Wai Keung Cheung, )  
a/k/a Su Ming, )  
a/k/a Alan Zheng; )  
ZHI EN HUANG, )  
a/k/a Gao Lo; )  
DAVID YUEN, )  
a/k/a Lo Wu , )  
a/k/a Wu So Gor; and )  
ERIC YU HENG CAI; )  
Defendants. )

25  
26 With the agreement of the parties, and with the consent of the defendants, the Court  
27 enters this order scheduling an arraignment or preliminary hearing on September 6, 2006 at

28 STIPULATION AND [PROPOSED] ORDER  
[3-06-70479] [MAG]

1 9:30A.M. before the duty magistrate judge, and documenting the defendants' waiver of the  
2 preliminary hearing date under Federal Rule of Criminal Procedure 5.1 and the exclusion of time  
3 under the Speedy Trial Act, 18 U.S.C. § 3161(b), from August 11, 2006 to September 6, 2006.

4 The parties agree, and the Court finds and holds, as follows:

5 1. The defendants agree to an exclusion of time under the Speedy Trial Act, 18 U.S.C. §  
6 3161(h)(8)(B)(iv) to provide continuity of counsel and reasonable time necessary for effective  
7 preparation, taking into account the exercise of due diligence.

8 2. The defendants waive the time limits of Federal Rule of Criminal Procedure 5.1 for  
9 preliminary hearing.

10 3. All counsel for the defendants believe that postponing the preliminary hearing is in the  
11 clients' best interest, and that it is not in their clients' interest for the United States to indict the  
12 case during the normal 10-day timeline established in Rule 5.1. All counsel for the defendants  
13 have specifically considered the need for additional time to continue consultations with Pretrial  
14 Services on the question of their clients' eligibility for pretrial diversion.

15 4. The Court finds that, taking into account the public interest in the prompt disposition  
16 of criminal cases, these grounds are good cause for extending the time limits for a preliminary  
17 hearing under Federal Rule of Criminal Procedure 5.1. Given these circumstances, the Court  
18 finds that the ends of justice served by excluding the period from August 11, 2006 to September  
19 6, 2006 outweigh the best interest of the public and the defendants in a speedy trial. §  
20 3161(h)(8)(A).

21 5. Accordingly, and with the consent of the defendant, the Court (1) alternatively sets a  
22 preliminary hearing or arraignment before the duty magistrate judge on September 6, 2006 at  
23 9:30A.M., and (2) orders that the period from August 11, 2006 to September 6, 2006 be excluded  
24 from the time period for preliminary hearings under Federal Rule of Criminal Procedure 5.1 and  
25 from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

26 //

27 //

1 IT IS SO STIPULATED:

2  
3 DATED: September 12, 2006

4  
5  
6 /S/ Robert Waggener  
ROBERT WAGGENER  
Attorney for Defendant Johnson Mai

7  
8 DATED: September 12, 2006

9  
10 /S/ Tony Tamburello  
TONY TAMBURELLO  
Attorney for Defendant Lisa Lee

11 DATED: September 12, 2006

12  
13 /S/ Brian Getz  
BRIAN GETZ  
Attorney for Defendant Zhi En Huang

14 DATED: September 12, 2006

15  
16 /S/ Stuart Hanlon  
STUART HANLON  
Attorney for Defendant David Yuen

17 DATED: September 12, 2006

18  
19 /S/ Randy Montesano  
RANDY MONTESANO  
Attorney for Defendant Eric Yu Heng Cai

20  
21 IT IS SO ORDERED.

22 DATED: September 15, 2006

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24   
HONORABLE JOSEPH C. SPERO  
United States Magistrate Judge